

State of Wisconsin



2009 Senate Bill 557

Date of enactment: **May 18, 2010**
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2009 WISCONSIN ACT 373

AN ACT *to amend* 20.370 (4) (bi); and *to create* 23.321, 23.323, 59.691, 60.625, 61.352, 62.232 and 101.02 (23) of the statutes; **relating to:** notices concerning construction near or on lakes, streams, or wetlands that are given to applicants for building permits and other construction approvals, requiring the Department of Natural Resources to furnish informational brochures about wetlands laws, requiring the Department of Natural Resources to provide evaluations and statements about whether certain land contains wetlands, and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (4) (bi) of the statutes is amended to read:

20.370 (4) (bi) *Water regulation and zoning — fees.* From the general fund, all moneys received under ss. 23.32 (3), 23.321, 30.28, 31.39 and 281.22 for activities relating to permits and approvals issued under chs. 30 and 31, water quality standards under subch. II of ch. 281 and for wetland mapping under s. 23.32 and wetlands services under s. 23.321.

SECTION 2. 23.321 of the statutes is created to read:

23.321 Wetland map review, identification, and confirmation. (1) In this section, “wetland” has the meaning given in s. 23.32 (1).

(2) Any person who owns or leases land may request that the department provide any of the following services for the fee specified in sub. (3):

(a) A wetland map review that consists of a written evaluation, based upon a review of wetland maps prepared by the department under s. 23.32 or other information available to the department, of whether a parcel of land is likely to contain a wetland. The evaluation shall

describe the method used by the department to review the wetland maps.

(b) A wetland identification that consists of a written evaluation, based upon an on-site inspection of the land by the department, of whether a parcel of land contains a wetland. The department shall provide a wetland identification only for a parcel of land, or a part of a parcel of land, that does not exceed 5 acres.

(c) A wetland confirmation that consists of a written statement, based upon an on-site inspection of the land by the department, of whether the department concurs with the boundaries of a wetland as delineated by a 3rd person. The delineation prepared by the 3rd person shall include the exact location and boundaries of the wetland. If the department concurs with the boundaries of a wetland delineated by a 3rd person, the department’s statement under this paragraph shall also include the exact location and boundaries of the wetland. The department may not provide a wetland confirmation under this paragraph before the earlier of the following:

1. The date on which the department enters into a memorandum of agreement with the U.S. Army Corps of Engineers as specified in sub. (2m).

* Section 991.11, WISCONSIN STATUTES 2007–08 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

2. The first day of the 13th month beginning after the effective date of this subdivision [LRB inserts date].

(2m) The department shall negotiate with the U.S. Army Corps of Engineers to enter into a memorandum of agreement that provides that the U.S. Army Corps of Engineers will concur with any wetland confirmation provided by the department under sub. (2) (c).

(3) The department shall charge the following fee for services provided under sub. (2):

(a) For a wetland map review under sub. (2) (a), \$50.

(b) For a wetland identification under sub. (2) (b), \$300 for each acre inspected by the department.

(c) For a wetland confirmation under sub. (2) (c), \$300 for each 20 acres inspected by the department.

(4) (a) Except as provided under par. (b), the department shall do all of the following:

1. Provide a wetland map review not later than 15 days after a person files a request, in the manner and form required by the department, for a wetland map review.

2. Provide a wetland identification not later than 30 days after a person files a request, in the manner and form required by the department, for a wetland identification.

3. Provide a wetland confirmation not later than 30 days after a person files a request, in the manner and form required by the department, for a wetland confirmation.

(b) If adverse weather conditions, or other conditions at the site, prevent the department from conducting an accurate on-site inspection under sub. (2) (b) or (c) in sufficient time to comply with the deadline under par. (a), the department shall provide a wetland identification under sub. (2) (b) or a wetland confirmation under sub. (2) (c) as soon as possible after weather conditions, or other conditions at the site, allow the department to conduct an accurate on-site inspection. Within 30 days after determining that adverse weather conditions, or other conditions at the site, will prevent the department from complying with the deadline under par. (a), the department shall give notice to the person requesting the wetland identification or wetland confirmation that adverse weather conditions, or other conditions at the site, will prevent the department from complying with the deadline and giving notice to the person that the department will provide the wetland identification or wetland confirmation as soon as possible after weather conditions, or other conditions at the site, allow the department to conduct an accurate on-site inspection.

(5) A wetland identification provided by the department under sub. (2) (b) and a wetland confirmation provided by the department under sub. (2) (c) remain effective for 5 years from the date provided by the department.

(6) If the department determines under this section that a parcel of land is likely to or does contain a wetland, or that it concurs with the boundaries of a wetland as delineated by a 3rd person, the department shall include this information on wetland maps prepared under s. 23.32.

SECTION 3. 23.323 of the statutes is created to read:

23.323 Wetlands informational brochure. The department shall furnish an informational brochure to cities, villages, towns, and counties for distribution to the public that describes the laws that apply to wetlands.

SECTION 4. 59.691 of the statutes is created to read:

59.691 Required notice on certain approvals. (1)

In this section, "wetland" has the meaning given in s. 23.32 (1).

(2) (a) Except as provided in par. (b), a county that issues a building permit or other approval for construction activity, shall give the applicant a written notice as specified in subs. (3) and (4) at the time the building permit is issued.

(b) 1. A county is not required to give the notice under par. (a) at the time that it issues a building permit if the county issues the building permit on a standard building permit form prescribed by the department of commerce.

2. A county is not required to give the notice under par. (a) at the time that it issues a building permit or other approval if the building permit or other approval is for construction activity that does not involve any land disturbing activity including removing protective ground cover or vegetation, or excavating, filling, covering, or grading land.

(3) Each notice shall contain the following language: "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER."

(4) The notice required in sub. (2) (a) shall contain the electronic Web site address that gives the recipient of the notice direct contact with that Web site.

(5) A county in issuing a notice under this section shall require that the applicant for the building permit sign a statement acknowledging that the person has received the notice.

SECTION 5. 60.625 of the statutes is created to read:

60.625 Required notice on certain approvals. (1)

In this section, "wetland" has the meaning given in s. 23.32 (1).

(2) (a) Except as provided in par. (b), a town that issues a building permit or other approval for construction activity, shall give the applicant a written notice as specified in subs. (3) and (4) at the time the building permit is issued.

(b) 1. A town is not required to give the notice under par. (a) at the time that it issues a building permit if the town issues the building permit on a standard building permit form prescribed by the department of commerce.

2. A town is not required to give the notice under par. (a) at the time that it issues a building permit or other approval if the building permit or other approval is for construction activity that does not involve any land disturbing activity including removing protective ground cover or vegetation, or excavating, filling, covering, or grading land.

(3) Each notice shall contain the following language: "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER."

(4) The notice required in sub. (2) (a) shall contain the electronic Web site address that gives the recipient of the notice direct contact with that Web site.

(5) A town in issuing a notice under this section shall require that the applicant for the building permit sign a statement acknowledging that the person has received the notice.

SECTION 6. 61.352 of the statutes is created to read:
61.352 Required notice on certain approvals. (1) In this section, "wetland" has the meaning given in s. 23.32 (1).

(2) (a) Except as provided in par. (b), a village that issues a building permit or other approval for construction activity, shall give the applicant a written notice as specified in subs. (3) and (4) at the time the building permit is issued.

(b) 1. A village is not required to give the notice under par. (a) at the time that it issues a building permit if the village issues the building permit on a standard building permit form prescribed by the department of commerce.

2. A village is not required to give the notice under par. (a) at the time that it issues a building permit or other approval if the building permit or other approval is for construction activity that does not involve any land disturbing activity including removing protective ground cover or vegetation, or excavating, filling, covering, or grading land.

(3) Each notice shall contain the following language: "YOU ARE RESPONSIBLE FOR COMPLYING

WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER."

(4) The notice required in sub. (2) (a) shall contain the electronic Web site address that gives the recipient of the notice direct contact with that Web site.

(5) A village in issuing a notice under this section shall require that the applicant for the building permit sign a statement acknowledging that the person has received the notice.

SECTION 7. 62.232 of the statutes is created to read:
62.232 Required notice on certain approvals. (1) In this section, "wetland" has the meaning given in s. 23.32 (1).

(2) (a) Except as provided in par. (b), a city that issues a building permit or other approval for construction activity, shall give the applicant a written notice as specified in subs. (3) and (4) at the time the building permit is issued.

(b) 1. A city is not required to give the notice under par. (a) at the time that it issues a building permit if the city issues the building permit on a standard building permit form prescribed by the department of commerce.

2. A city is not required to give the notice under par. (a) at the time that it issues a building permit or other approval if the building permit or other approval is for construction activity that does not involve any land disturbing activity including removing protective ground cover or vegetation, or excavating, filling, covering, or grading land.

(3) Each notice shall contain the following language: "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER."

(4) The notice required in sub. (2) (a) shall contain the electronic Web site address that gives the recipient of the notice direct contact with that Web site.

(5) A city in issuing a notice under this section shall require that the applicant for the building permit sign a statement acknowledging that the person has received the notice.

SECTION 8. 101.02 (23) of the statutes is created to read:

101.02 (23) The department shall include the following language on every standard building permit form prescribed by the department under this chapter: “YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF

NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER.”

SECTION 9. Nonstatutory provisions.

(1) POSITION AUTHORIZATIONS. The authorized FTE positions for the department of natural resources are increased by 3.0 PR project positions for the period ending on June 30, 2014, and 1.0 PR position, to be funded from the appropriation under section 20.370 (4) (bi) of the statutes, for the purpose of providing wetland map review, identification, and confirmation services under section 23.321 of the statutes, as created by this act.

SECTION 10. Initial applicability.

(1) BUILDING PERMITS. The treatment of sections 59.691, 60.625, 61.352, and 62.232 of the statutes first applies to applications for building permits that are submitted on the effective date of this subsection.

SECTION 11. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.